

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-08  
EA-10 FRB-03 INR-10 IO-13 NEA-10 NSAE-00 USIA-06  
OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01 AGRE-00  
OMB-01 SS-15 DODE-00 DOE-11 SOE-02 /118 W  
-----043359 100006Z /75

R 092015Z MAR 78  
FM AMEMBASSY PARIS  
TO SECSTATE WASHDC 8410

C O N F I D E N T I A L SECTION 01 OF 03 PARIS 08430

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EXCON

E.O. 11652: XGDS1  
TAGS: ESTC, COCOM, UR US  
SUBJ: US STRETCH FORM PRESS TO USSR-IL 1081 (CYRIL  
BATH CASE)

REFS: A) COCOM DOC (78) L08, B) PARIS 7659  
C) STATE 40611 D) STATE 28658 E) PARIS 7278

L. COCOM CHAIRMAN ALBERTO INDELICATO, AS EXPECTED,  
DREW COMMITTEES ATTENTION TO REFCASE AT COCOM MEETING  
MARCH 7 AND SUGGESTED "PREDISCUSSION" OF THE POLICY  
AND PROCEDURAL QUESTIONS IT RAISES BE SCHEDULED FOR  
COCOM MEETING MARCH 14. CHAIRMAN NOTED "UNUSUAL ASPECTS"  
OF CASE: ITS REFERENCE TO AP-3, THE ALLEGATION OF  
AVAILABILITY FROM OTHER COCOM SOURCES, AND THE  
ABSENCE OF STATED END-USER AND OF TRADITIONAL  
STATEMENT THAT CASE "REASONABLE AND APPROPRIATE FOR  
STATED END USE."

2. USDEL USED OCCASION OF CHAIRMAN'S REMARKS TO  
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MAKE INTRODUCTORY STATEMENT ON CASE DIRECTED AT  
EXPLAINING US MOTIVATIONS FOR SUBMISSION AND AT  
OBTAINING FULL AIRING OF TECHNICAL AND INTERPRETATIONAL  
QUESTIONS SURROUNDING IT. (TEXT PROVIDED BELOW). STATE-  
MENT, WHICH DRAWS ON TECHNICAL ARGUMENTS PROVIDED  
REFTEL D, WAS ALSO MEANT TO ANTICIPATE POSSIBLE FRENCH  
STATEMENTS DURING SUBSEQUENT DISCUSSION OF CASE.

3. PRIOR TO COCOM MEETING USDEL CALLED ON GERMAN, UK AND DUTCH DELEGATES TO BRIEF THEM MORE FULLY ON CIRCUMSTANCES SURROUNDING CASE AND TO SEEK THEIR COOPERATION IN THE COMMITTEE TO MOTIVATE FRANCE TO BE AS FORTHCOMING AS POSSIBLE ON THEIR APPARENT EXPORT OF SIMILAR PRESSES TO AVTOPROMIMPORT. USDEL UNDERSCORED IMPORTANCE US ATTACHED TO EITHER (A) GETTING FRENCH TO COME TO COCOM WITH THEIR CASE, OR (B) OBTAINING EARLY APPROVAL OF US CASE IF FRENCH ARE NOT FORTHCOMING ON THEIR EXPORT. ALL THREE DELS STATED SYMPATHY WITH US POSITION AND TACTICS AND PROMISED TO SEEK APPROPRIATE INSTRUCTIONS FROM THEIR AUTHORITIES. GERMAN AND DUTCH DELS DID STATE SURPRISE, HOWEVER, THAT US--WHICH GERMAN DEL CALLED "THE CONSCIENCE OF COCOM"--WOULD CONDONE THE EXPORT OF EQUIPMENT IT VIEWED AS STRATEGIC FOR AN APPARENT STRATEGIC END USE EVEN THOUGH EQUIPMENT WAS BEING MADE AVAILABLE FROM ANOTHER COCOM SOURCE. GERMAN DEL WONDERED OUT LOUD WHAT US REACTION WOULD NOW BE IF GERMAN AUTHORITIES DECIDED TO PRESENT A REQUEST FOR YET ANOTHER PRESS ON THE SAME GROUNDS AS THE US CITED. UKDEL RECALLED THAT HIS AUTHORITIES HAD SUGGESTED DURING 1974 LIST REVIEW THAT IL 1081 COULD BE DELETED AS IT MERELY DUPLICATED COVERAGE OF OTHER PROVISIONS. HIS AUTHORITIES WOULD NOW HAVE TO LOOK AT 1081 CLOSELY WITH REGARD TO THIS CASE, HE

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SAID. USDEL DREW ON PARA 2 REFTEL C IN RESPONSE.

4. DURING COMMITTEE DEBATE OVER COCOM CHAIRMAN'S SUGGESTION FOR PREDISCUSSION, FRENCH DEL ALLEX STATED THAT HE THOUGHT HIS AUTHORITIES WOULD NOT BE PREPARED TO DISCUSS REFCASE BEFORE MARCH 21 MEETING. BELGIAN DEL THOUGHT PREDISCUSSION WOULD BE QUITE USEFUL GIVEN NATURE OF CASE. HE STATED VIEW, HOWEVER, THAT APPARENT ACCUSATION CONTAINED IN CASE WOULD BE BETTER LEFT FOR EXPORT CONTROL SUBCOMMITTEE DEBATE. WHILE NO DELEGATION ENTHUSIASTICALLY SUPPORTED CHAIRMAN'S SUGGESTION COMMITTEE ACQUIESED IN CHAIRMAN'S DECISION TO PLACE CASE ON MARCH L4 AGENDA FOR PREDISCUSSION.

5. TEXT OF US STATEMENT REFERRED TO PARA 2 FOLLOWS:

"I WOULD LIKE TO TAKE THIS OPPORTUNITY TO CLARIFY CERTAIN POINTS ABOUT THIS DOCUMENT AND THE CIRCUMSTANCES THAT SURROUND IT. FIRST: WITH REGARD TO OUR STATEMENT IN PARAGRAPH TWO OF THE DOCUMENT THAT THE EXPORT OF THIS EQUIPMENT WOULD--WITHOUT

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C O N F I D E N T I A L SECTION 02 OF 03 PARIS 08430

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COCOM APPROVAL--VIOLATE AP3. LET ME MAKE THE UNITED STATES POSITION ON THE EMBARGO STATUS OF THIS EQUIPMENT CLEAR. THE UNITED STATES MAINTAINS THAT THE MACHINE INVOLVED IN THIS REQUEST--AND SIMILAR MACHINES--ARE EMBARGOED UNDER IL 1U81 DESPITE THE FACT THAT THE EQUIPMENT IS BEING EXPORTED WITHOUT TOOLING OR DIES. USUALLY TOOLING AND DIES FORM A PART OF SUCH PRESSES AND DETERMINE OR MAKE CLEAR THEIR SPECIFIC FUNCTION OR PURPOSE. THE ABSENCE OF SUCH TOOLING AND DIES, HOWEVER, DO NOT AFFECT THE NATURE, DESIGN OR CHARACTERISTICS OF THE PRESS ITSELF. IT IS THE PRESS ITSELF, AS WE STATE IN OUR MEMORANDUM ON THIS CASE, WHICH IS THE PRINCIPAL ELEMENT WHICH DETERMINES THE EMBARGO STATUS OF THE EQUIPMENT. ANY ASSERTION THAT THE EQUIPMENT CANNOT BE SAID TO BE SPECIALLY DESIGNED FOR THE AERONAUTIC INDUSTRY WOULD BECAUSE ITS AERONAUTIC DIES OR TOOLING ARE ABSENT WOULD BE PLAYING SEMANTICS WITH THE PURPOSE AND INTENT OF THE EMBARGO.

"STRETCH FORM-DRAW PRESSES HAVE BEEN USED WITH EXCELLENT RESULTS PRIMARILY IN TWO INDUSTRIES: THE AUTOMOTIVE AND AERONAUTIC. THE PRESSES EMPLOYED BY  
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EACH INDUSTRY ARE, HOWEVER, QUITE DIFFERENT IN DESIGN AS WELL AS FUNCTION. IN FACT, THE DESIGN DIFFERENCES ARE SO MANIFEST THAT ENGINEERING PERSONNEL CAN TELL THE DIFFERENCES BETWEEN THEM BY MERELY VIEWING DETAILED PICTURES OR OUTLINE DRAWINGS OF PARTICULAR MACHINES. THE AUTOMOBILE MACHINERY IS ALMOST ALWAYS SMALLER IN PHYSICAL SIZE, BUT IS RATED AT A HIGHER APPLIED TON FORCE RATING THAN AERONAUTIC MODELS. UNLIKE AERONAUTIC PRESSES, THE AUTOMOBILE PRESS IS USUALLY A SINGLE ACTION UNIT MECHANICALLY OPERATED AND HAVING AUTOMATED MECHANICAL OR HYDRAULIC MATERIAL INSERTION AND REMOVAL EQUIPMENT. IN FACT, STRETCH FORM PRESSES USED FOR THE AUTOMOTIVE INDUSTRY ARE USUALLY ONLY NORMAL SINGLE ACTION MECHANICAL PRESSES MODIFIED WITH SPECIAL ATTACHMENTS FOR STRETCH DRAW FORMING. PRESSES FOR AERONAUTIC APPLICATIONS, ON THE OTHER HAND, ARE ALWAYS HYDRAULICALLY OPERATED AND MANUALLY LOADED AND UNLOADED.

"ALL THIS IS NOT TO SAY THAT PRESSES WHICH ARE DESIGNED FOR THE AERONAUTIC INDUSTRY CANNOT BE USED FOR OTHER INDUSTRIES, BUT RATHER THAT SUCH EQUIPMENT CONTAINS CAPABILITIES FOR USE IN THE AERONAUTIC INDUSTRY WHICH PRESSES OF OTHER DESIGN DO NOT. THE PRESS WHICH IS THE SUBJECT OF THIS REQUEST--AND SIMILAR PRESSES--ARE PREDOMINANTLY USED IN THE AERONAUTIC INDUSTRY AND THEREFORE CAN BE SAID TO BE SPECIALLY DESIGNED FOR THE AERONAUTIC INDUSTRY.

"SECOND: IN SUBMITTING THIS REQUEST THE UNITED STATES IS AWARE OF AN APPARENT AMBIGUITY IN THE EMBARGO LANGUAGE OF IL 1081 AND THE RELATIONSHIP OF IL 1081 AND ANOTHER EMBARGO PROVISION--IL 1072. BOTH OF THESE PROVISIONS PURPORT TO COVER STRETCH FORM

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DRAW PRESSES. IL 1072 GENERALLY COVERS SUCH PRESSES HAVING CERTAIN SPECIFICATIONS WHILE IL 1081 BY ITS TERMS COVERS ALL STRETCH FORM PRESSES "SPECIALLY DESIGNED FOR THE WORKING OR FORMING OF AIRCRAFT SHEET, PLATE, OR EXTRUSION." "SPECIALLY DESIGNED." WHAT DOES THAT TERM MEAN? THIS IS PERHAPS THE SOURCE OF THE AMBIGUITY. FOR IF A PRESS IS SPECIALLY DESIGNED FOR THE AERONAUTIC INDUSTRY IT IS COVERED BY IL 1081. BUT IF IT IS NOT "SPECIALLY DESIGNED" FOR THE AERONAUTIC INDUSTRY THEN IL 1072 APPLIES. THE RESULTS OF THESE TWO PROVISIONS CAN BE VERY DIFFERENT.

"THE UNITED STATES BELIEVES THAT IT WOULD BE

QUITE HELPFUL IN THE CONTEXT OF THIS CASE

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FOR THE COMMITTEE TO CLARIFY THIS POINT AND  
THE RELATIONSHIP BETWEEN THESE TWO PROVISIONS.  
ANY DIFFERENCE OF INTERPRETATION REGARDING  
THESE PROVISIONS MUST BE RESOLVED IN ORDER TO  
RETAIN EQUAL CONTROLS OVER EQUIPMENT OF  
STRATEGIC CONCERN AND TO INSURE A  
UNIFORMITY OF APPLICATION OF THE COCOM EMBARGO  
RESTRICTIONS AMONG ALL COCOM MEMBERS.

"HOW CAN ONE DETERMINE WHETHER OR NOT A  
MACHINE IS "SPECIALLY DESIGNED" FOR THE  
AERONAUTIC INDUSTRY. IT WOULD SEEM TO ME  
SOMEWHAT INAPPROPRIATE FOR THE PURPOSES  
OF STRATEGIC EXPORT CONTROL TO MERELY ASK  
THE MANUFACTURER WHAT PURPOSE HE HAD INTENDED  
TO DESIGN A PIECE OF EQUIPMENT TO SERVE.  
WHAT THE EMBARGO IS CONCERNED WITH IS NOT  
INTENT, BUT RATHER CAPABILITIES.  
IT IS THE CAPABILITY OF THE EQUIPMENT THEREFORE  
TO WHICH WE MUST LOOK TO JUDGE WHETHER OR NOT  
A SPECIFIC MODEL OF EQUIPMENT WAS "SPECIALLY  
DESIGNED" FOR THE AERONAUTIC INDUSTRY. THE FACT THAT  
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A PIECE OF EQUIPMENT IS PREDOMINANTLY USED IN THE AERONAUTIC INDUSTRY IS ALSO ANOTHER INDICATION OF ITS BEING "SPECIALLY DESIGNED" FOR THAT INDUSTRY DESPITE THE FACT THAT IT MAY HAVE SOME LIMITED OR SMALL SERIES APPLICATIONS IN OTHER FIELDS.

"FINALLY, I REFER TO THE STATEMENT IN PARAGRAPH THREE THAT WE BELIEVE THAT THE USSR MAY HAVE ACCESS TO SUCH PRESSES FROM OTHER COCOM SOURCES, BUT THAT IF THIS SHOULD NOT BE THE CASE THAT WE WOULD WITHDRAW THIS REQUEST. THE UNITED STATES BELIEVES THAT THE OVERRIDING JUSTIFICATION FOR THE COMMITTEE'S APPROVAL OF THIS CASE IS BASED IN EQUITY AND THE NEED FOR EQUAL APPLICATION OF THE EMBARGO RESTRICTIONS. THE UNITED STATES AUTHORITIES WOULD FIND IT BOTH DIFFICULT AND INAPPROPRIATE TO DENY AN EXPORT LICENSE TO THE UNITED STATES APPLICANT IN THIS CASE WHEN AT THE SAME TIME COMPARABLE EQUIPMENT IS BEING MADE AVAILABLE FREELY FROM ANOTHER COCOM SOURCE. SUCH AN UNEQUAL APPLICATION OF THE EMBARGO WOULD RAISE SERIOUS QUESTIONS IN THE MINDS OF BOTH THE APPLICANTS FOR EXPORT LICENSES AND THE GOVERNMENT AGENCIES CHARGED WITH REGULATING STRATEGIC EXPORTS. IT WOULD SEVERELY HARM THE CREDIBILITY OF THE EMBARGO--AND COCOM."

SALZMAN

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
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**To:** STATE  
**Type:** TE  
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